

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

CALIBRA ALSTON,

Defendant and Appellant.

C072773

(Super. Ct. No. 11F05426)

In two separate incidents, police officers requested that defendant Calibra Alston produce identification. Both encounters deteriorated, culminating in defendant being charged with obstructing or resisting an officer, battery on a peace officer, and resisting, delaying, or obstructing a peace officer. (Pen. Code, §§ 69, 243, subd. (c)(2), 148, subd. (a)(1).)¹ A jury found defendant guilty of misdemeanor resisting, delaying, and obstructing a peace officer in one incident, but failed to reach a verdict on the other

¹ All further statutory references are to the Penal Code unless otherwise designated.

counts in the second incident. The court ultimately sentenced defendant to 45 days and imposed fees and fines. Proceeding in pro. per., defendant appeals, arguing the trial court committed a plethora of errors. We shall affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

An amended information charged defendant with, in count one, obstructing or resisting an executive officer in the performance of his or her duty by threats or violence; count two, battery on a police officer engaged in the performance of his or her duty; and, in counts three and four, misdemeanor resisting, delaying, and obstructing a peace officer. The trial court granted the prosecution's motion to consolidate the two cases and denied defendant's motion to set aside the information as to counts one and two.

Defendant waived her right to counsel. The following evidence was introduced at trial.

Counts One and Two

On the morning of August 8, 2011, Officer Jon Deardorff was dispatched by text to a 911 disturbance call at Thai Massage. An employee reported a customer was refusing to leave. The text message described the suspect as a black male adult, wearing a grey jacket and short jean pants, and "curly," which could have described either his nickname or his hair. The employee described the suspect as a transient who was banging on the door and demanding entry. Deardorff explained that, when responding to a call, police look for individuals matching or partially matching the description because a frightened caller can get information wrong or the dispatch may contain a typographical error.

Officer Deardorff arrived at Thai Massage a few minutes later. As he drove up, Deardorff saw an African-American subject about 100 feet away wearing a grey sweater and black pants, standing beside a white Toyota Camry. Deardorff saw no one else in the area.

Officer Deardorff drove towards the Camry and realized the person, defendant, was female. However, he still considered defendant a suspect because she was the only one in the area. Defendant got into the car and Deardorff could not tell if she was wearing jeans. The Toyota was full of personal belongings and Deardorff was under the impression defendant could be the transient described in the call. Defendant's hair was curly and "a bit disheveled."

Officer Deardorff told defendant he was responding to a call and asked if she had just come from the massage parlor. Defendant responded she had not. Deardorff testified defendant partially matched the description of the person involved in the incident and noted that "sometimes the callers are off in their descriptions."

As he spoke to defendant, Officer Deardorff was polite and smiling and he could have verified her name very quickly on the computer system. However, defendant denied being the person identified in the call, showed him the hem of her pants, and said there was no reason to identify herself. Deardorff described defendant as defensive, irritated, and evasive. Her response aroused Deardorff's suspicions based on his experience with other suspects. Deardorff, in determining he had reasonable suspicion for detention, considered all the attendant circumstances, not just her attitude and appearance.

Officer Deardorff asked defendant several times to identify herself and provide identification. Defendant continued to refuse. Defendant told Deardorff he had no reason to detain her and she did not have to identify herself.

Officer Deardorff noted the Toyota lacked a front license plate, a requirement in California. He pointed this out to defendant in an attempt to "pacify" her by providing an additional reason for the detention. Defendant yelled at the officer, saying she did not need a license plate because the car was registered in Pennsylvania. In response, Deardorff again asked for her identification in case she was involved in the call.

Defendant refused and rolled up the car window. Deardorff pulled his patrol car in front of the Toyota to prevent defendant from driving away.

Defendant got out of the car and again told Officer Deardorff he had no reason to detain her. Believing defendant would try to leave, Deardorff tried to grab her arm, telling her she could not leave without providing identification. Defendant pulled away and tried to leave. Deardorff unsuccessfully tried three more times to grab her arm. After again warning her, the officer tried to perform a rear shoulder throw takedown, which also failed. Deardorff then wrapped his arm around defendant's shoulders and used his body weight to force her to the ground.

Once on the ground, Officer Deardorff's hand became stuck under defendant's head and she wrapped her leg around his waist. Defendant began fighting, yelling, and screaming. Deardorff could not reach any of the defensive tools on his utility belt. To defend himself, Deardorff struck defendant several times in the head with his fist. Defendant responded by gouging him in the back of the neck with her thumb. She struck the officer seven or eight times in the back of the head with her closed fist.

Officer Marcus Frank arrived and witnessed defendant striking Officer Deardorff. Frank managed to subdue and handcuff her. As Deardorff put defendant in the backseat of his car, defendant suddenly kicked him in the right knee. The kick exacerbated a prior injury which subsequently required surgery. Deardorff also sustained injuries to his wrist, thumb, other knee, neck, and bicep.

At trial, a video from the police car video camera was played for the jury.

Counts Three and Four

On February 11, 2012, Officer Steven Davis was on duty in a marked patrol car. He was parked in an area known for homelessness, drug abuse, gangs, and prostitution. It is considered "a high call-for-service area." Officer Davis saw a white Toyota parked

in a dilapidated parking lot next to a building. Based on his experience in the neighborhood, Davis believed the building was empty.

One person, defendant, sat in the car. The Toyota did not have a front license plate, a violation of the Vehicle Code. When he pulled up behind the Toyota, Officer Davis saw a Pennsylvania license plate on the back, but did not see any stickers. Upon running a registration check, Davis found the registration had expired the prior December, a violation of Vehicle Code section 4000, subdivision (a). Davis saw no California stickers on the car although there was something on the back window which he did not recognize. He did not believe the Toyota was properly registered.

Officer Davis walked up to the driver's side of the Toyota. Defendant sat in the driver's seat with the window rolled up, talking on the phone. She did not respond when Davis knocked on the window. Davis tried the door handle, which was locked. Defendant rolled down the window and yelled at Davis. She accused him of violating her rights and committing "other injustices."

Officer Davis attempted to request her identification, but defendant continued to yell at him. Because of defendant's yelling, the two never engaged in a two-way conversation. Davis asked defendant several times for identification and told her he would have to write her a ticket. Davis had no desire to arrest defendant for a minor offense.

Officer Davis summoned Officer Charles Mantrell for assistance. Mantrell tried to speak with defendant, but to no avail. Davis then contacted Sergeant Dubke. Before Dubke arrived, defendant got out of the car and began to walk away. Davis and Mantrell told her to stop and Davis told her she was detained. Defendant continued to walk away, passing Mantrell and moving towards the building.

Officer Mantrell tried to place his hand on defendant's arm, but she pulled away, moving her arms back and forth "pretty violently." Mantrell managed to grab her right wrist. Davis grabbed defendant's left arm to take a "control hold," but defendant pulled

her arm away and locked her joints. Defendant was taller than Davis. Davis did a “hair pull takedown” bringing defendant to the ground. Defendant tried to kick Davis, who was on the ground, in the face, but missed. Mantrell, also shorter than defendant, fell to the ground twisting his ankle.

Defendant continued to struggle and kick the officers. When a third officer arrived, Officer Mantrell managed to grab defendant’s hands and the two officers handcuffed defendant.

At trial, a video from Officer Davis’s patrol car was played for the jury. On the video, Davis looks at a white piece of paper on the rear window of defendant’s car. Davis testified he did not know what it was and was confident it had nothing to do with a vehicle registration or “anything official.” A search of defendant and her vehicle failed to yield a California driver’s license. A video from Officer’s Mantrell’s patrol vehicle was also played for the jury. Mantrell ran a check on defendant’s vehicle registration with the Pennsylvania Department of Transportation and found it had expired the previous December.

Defense Case

Defendant testified in her own defense. According to defendant, her reluctance to identify herself stemmed from previous police harassment. They had written her up in “contact logs.” On August 17, 2010, police told defendant she looked suspicious and arrested her. Charges against her for being an unlicensed driver and for obstructing an officer were later dismissed.

Counts One and Two

On August 8, 2011, defendant had a successful job interview with a real estate agency. As defendant moved her car so she could begin work, Officer Deardorff asked her for identification because her car had no front plate. Defendant explained she was

from Pennsylvania and did not need one. The officer renewed his request, telling her he was investigating a matter and defendant matched the suspect's description.

Defendant repeatedly refused and tried to walk back to the real estate office. Officer Deardorff put defendant in a choke hold and threw her to the ground. He then banged her head on the sidewalk and punched her. Defendant kicked Deardorff out of fear because she did not know what else he might do to her.

Counts Three and Four

On February 11, 2012, defendant was in a parking lot waiting to volunteer for a city council candidate. When Officer Davis approached her car, defendant phoned "Francine" at the Office of Public Safety and Accountability to report the matter to Internal Affairs.

Officer Davis ignored defendant's Pennsylvania temporary vehicle registration on the back of her car window. When defendant tried to walk away from Davis, he grabbed her hair and pulled her to the ground.

During cross-examination, defendant stated she was six feet tall, but acknowledged her height when she played on a women's basketball team was listed as 6 feet 3 inches. She stated the team exaggerated her height. Defendant acknowledged she could have weighed between 180 to 200 pounds.

Defendant did not retain the Pennsylvania vehicle registration from her car's back window. On February 11, 2012, when Officer Deardorff took her picture at the jail, she asked him whether he beat his wife the same way he beat her.

Verdict and Sentencing

The jury found defendant guilty on counts three and four, but was unable to reach a verdict on counts one and two. The trial court declared a mistrial on counts one and two. The court denied defendant's motion for a new trial and motion to dismiss.

The court granted defendant two years of informal probation on several conditions, including that she serve 15 days in county jail, or perform 60 hours of community service, and that she identify herself when requested by a police officer whether or not she believed it was justified. The court also imposed fees and fines.

Ultimately, defendant rejected the terms of probation and the court ordered her to serve 45 days in jail and confirmed the previously imposed fees and fines. The court also granted the prosecution's motion to dismiss counts one and two. Defendant filed a timely notice of appeal.

DISCUSSION

In essence, defendant's appeal is based on her belief that "Over the past few years, [defendant] has been insistently harassed by various officers acting under color of law and she has received no help from the courts or the various departments who are responsible for deterring such unconstitutional behaviors. Instead, she is constantly prosecuted for exercising her constitutional rights to simply exist without police interference and is retaliated against for exercising her rights. The Superior Court, Police Department, and the District Attorney all believe that it is legal to detain and arrest a person for identification purposes and that it is [defendant's] duty to talk to police." Although defendant's briefing is neither well organized nor concise, we shall endeavor to address her claims on appeal.

I

Motion to Suppress

Defendant argues the court erred in finding her Fourth Amendment rights were not violated in her section 1538.5 hearing and in determining her detention and arrest were legal. She challenges her detention in both counts one and two and counts three and four.

Counts One and Two

In her motion to suppress, defendant sought to suppress all evidence obtained as a result of any illegal act including her conduct after the officer improperly detained her. Included in the motion were any and all statements made by defendant, any and all observations of police officers, and all photographs of the scene. The court denied the motion, providing a detailed discussion of its reasoning.

The jury was unable to reach a verdict on counts one and two and the court granted a mistrial and granted the prosecution's motion to dismiss. As a general rule, we decide only actual controversies. We do not render an opinion on moot questions or abstract propositions, nor do we declare principles or rules of law which cannot affect the matter before us. An issue becomes moot when a ruling can have no practical effect or provide a party with any relief. (*People v. Rish* (2008) 163 Cal.App.4th 1370, 1380.) We may consider an issue otherwise considered moot if it involves an important public interest that will otherwise evade review. (*People v. Gregerson* (2011) 202 Cal.App.4th 306, 321.)

In the present case defendant was not found guilty on counts one and two; accordingly, we cannot grant defendant relief from the denial of her motion to suppress pertaining to those counts. Defendant argues: "There is a serious public interest that has been presented several times throughout this case. [Defendant] was beaten, arrested, and stood trial on felony charges even though it was known the entire time she had not been involved in any criminal activities . . . Also, [defendant] has a felony arrest that will continue to be used against her even though she had done nothing wrong. Her life has been greatly diminished." A ruling on her motion to suppress would not affect her felony arrest record. We find the issue moot.

Counts Three and Four

Defendant also argues she was unlawfully detained on February 11, 2012. According to defendant, “The prosecutor never had to establish that the detention of [defendant] was a legal detention—he just stated that it was legal and that assertion was simply accepted.”

Under section 1538.5, subdivision (m): “Review on appeal may be obtained by the defendant provided that at some stage of the proceedings prior to conviction he or she has moved for the return of property or the suppression of the evidence.” If a defendant fails to file a suppression motion in the trial court it cannot be raised for the first time on appeal. (*People v. Lilienthal* (1978) 22 Cal.3d 891, 896.) Defendant never filed a section 1538.5 motion regarding counts three and four. Therefore, the issue is forfeited.²

In a related claim, defendant argues the trial court erred and violated her Fourth Amendment rights “when it ruled that [she] had no right to identify [herself] and walk away from police and go about her day.” Defendant states that in connection with all four counts she had the right to refuse to identify herself and walk away. However, as to counts one and two the issue is moot, and as to counts three and four, defendant forfeited the issue.

² Defendant argues against forfeiture: “There is an [*sic*] very important public interest that will continue to recur and evade review. [Defendant] has complained about police misconduct and constitutional violations several times before the inception of both these cases and nothing has been done to protect her . . . [Defendant] beli[e]ves that a constitutional violation should never be deemed moot and that there are no other remedies. Besides, [defendant] has informed the court, in almost every appearance, that she is a victim of police misconduct and prosecutorial retaliation so the criteria should be satisfied – these issues were brought to the Superior Court’s attention on several occasions including during trial.”

II

Instructional Error

Defendant argues the trial court erred in instructing the jury that the officers were lawfully performing their duty “without ever proving this assertion.” Defendant contends that in the events surrounding all four counts the officers were not in lawful performance of their duties. She states “[Defendant] was rejected when she asked if the instruction could include that the officer was not in the lawful performance of duty.” The court refused to include such an instruction.

The court must instruct, even in the absence of a request, on the general principles of law relevant to the issues raised by the evidence. These general principles refer to those principles closely and openly connected with the facts before the court and that are necessary to the jury’s understanding of the case. (*People v. Breverman* (1998) 19 Cal.4th 142, 154.) The court may properly deny a proffered instruction where the substance of the instruction was adequately covered by the instructions given. (*People v. Welch* (1972) 8 Cal.3d 106, 119-120.) We consider the instructions as a whole to determine whether they correctly state the law. (*People v. Campos* (2007) 156 Cal.App.4th 1228, 1237 (*Campos*).)

We also assess the jury instructions to determine whether there is a reasonable likelihood the jury applied the instructions in a way that violated the defendant’s constitutional rights. (*Campos, supra*, 156 Cal.App.4th at p. 1237.) We review the instructions de novo. (*People v. Hamilton* (2009) 45 Cal.4th 863, 948.)

Defendant requested that the court add a special instruction, Instruction No. 1, regarding an officer’s duty: “The absence of a front license plate on an out of state vehicle can be considered to be a violation of law if the officer knows that the state of registration requires two plates. Without such knowledge, there is no basis to conclude there has been a violation of the law of California.” The court denied defendant’s request

that the instruction include “and the officer was not in lawful performance of his duties,” reasoning the other instructions covered the issue: “[Y]ou shouldn’t have to hit something over the head 15 times.”

The trial court repeatedly instructed the jury that an officer must be in lawful performance of his or her duties. With regard to count one, the court instructed with CALCRIM No. 2652: “A peace officer is not lawfully performing his duties if he is unlawfully arresting or unlawfully detaining someone or using unreasonable or excessive force in the performance of his duties.”³

After instructing on the elements of count two, the court instructed with CALCRIM No. 2672:

“The defendant is not guilty of the crime of battery against a peace officer if the officer was not lawfully performing his duties because he was unlawfully arresting someone.

“However, even if the arrest was unlawful, as long as the officer used only reasonable force to accomplish the arrest, the defendant may be guilty of the lesser crime of battery.

“On the other hand, if the officer used unreasonable or excessive force, and the defendant used only reasonable force in self defense, then the defendant is not guilty of the lesser crime of battery.

“The People have the burden of proving beyond a reasonable doubt that the officer was lawfully performing his duties. If the People have not met this burden, you must find the defendant guilty of simple battery.”

³ Defendant argues CALCRIM No. 2652 inaccurately defines an officer’s duties because “[no] officer has the lawful duty to detain, arrest, collect information, and investigate whomever they want.” However, nothing in the instruction supports such a broad reading.

After instructing on the elements of counts three and four, the court instructed with CALCRIM No. 2670, which states in part:

“The People have the burden of proving beyond a reasonable doubt that in connection with each charge each officer was lawfully performing his duties as a peace officer. If the People have not met this burden, you must find the defendant not guilty as to any criminal charge in which lawful performance is an element of the charge. This principle applies to all four of the charged offenses.

“A peace officer is not lawfully performing his duties if he is unlawfully arresting or unlawfully detaining someone or using unreasonable or excessive force when making or attempting to make an otherwise lawful arrest or detention.”

The court also instructed on when an officer may legally detain or arrest a suspect, when an officer may use reasonable force, and when the arrested person may, in turn, use reasonable force.

Our review of the instructions given reveals no error by the trial court in declining defendant’s proffered addition to the instruction. The court repeatedly instructed the jury that the police officers must be in lawful performance of their duties.

Defendant also faults the court for failing to instruct on lawful detentions or probable cause. In addition, defendant argues the instructions given allowed the prosecution to avoid justifying her detention. According to defendant: “The jury never heard about the differences between consensual encounters, reasonable suspicion, or probable cause. It is impossible for a jury to determine if a detention or arrest is legal if they were never informed on those concepts.” We disagree with defendant’s analysis of the instructions given by the court.

The trial court instructed with CALCRIM No. 2670, which states in part:

“The People have the burden of proving beyond a reasonable doubt that in connection with each charge each officer was lawfully performing his duties as a peace officer. If the People have not met this burden, you must find the defendant not guilty as

to any criminal charge in which lawful performance is an element of the charge. This principle applies to all four of the charged offenses.

“A peace officer is not lawfully performing his duties if he is unlawfully arresting or unlawfully detaining someone or using unreasonable or excessive force when making or attempting to make an otherwise lawful arrest or detention.

“A peace officer may legally detain someone if:

“1. Specific facts known or apparent to the officer lead him to suspect that the person to be detained has been, is, or is about to be involved in activity relating to crime;

“AND

“2. A reasonable officer who knew the same facts would have the same suspicion.

“Any other detention is unlawful.

“Probable cause exists when the facts known to the arresting officer at the time of the arrest would persuade someone of reasonable caution that the person to be arrested has committed a crime.

“In deciding whether the arrest was lawful, consider evidence of the officer’s training and experience and all the circumstances known by the officer when he arrested the person.”⁴

Defendant contends CALCRIM No. 2656 “told the jury Officer Davis was lawfully performing his duties and that failure to give an identification violated PC § 148 which is contrary to law.” When read in context, it is clear that the instruction left all the appropriate factual determinations up to the jury to decide.

⁴ Defendant notes that the trial court expressed some dissatisfaction with the discussion of detention in CALCRIM No. 2670. However, defendant failed to object to the instruction and the claim is forfeited on appeal. (*People v. Russell* (2010) 50 Cal.4th 1228, 1273.)

The instruction based on CALCRIM No. 2656 states, in part: “The People allege that the defendant resisted, or obstructed, or delayed Officer Davis by doing the following: refusing to provide name or ID for citation, walking away after being told to stay, pulling her arm away from officers, attempting to kick Officer Davis, struggling with [the] officer while on the ground. You may not find the defendant guilty unless you all agree that the People have proved that the defendant committed at least on[e] of the alleged acts of resisting, or obstructing, or delaying Officer Davis who was lawfully performing his duties, and you all agree on which act she committed.” Taken in context, the instruction informed the jury it must find the officer was performing his duties while defendant resisted, obstructed, or delayed him.

Defendant also argues CALCRIM No. 370 allowed the jury to consider motive, but defendant was not allowed to present evidence to the contrary. “The People are not required to prove that the defendant had a motive to commit any of the crimes charged. In reaching your verdict you may, however, consider whether the defendant had a motive. [¶] Having a motive may be a factor tending to show that the defendant is guilty. Not having a motive may be a factor tending to show the defendant is not guilty.” (CALCRIM No. 370.) During cross-examination, the prosecution presented evidence defendant had filed suits against several police departments. We find no error in giving the instruction.

Although defendant requested Instruction No. 1, she argues the instruction given was incomplete and misstated the law. The instruction given stated: “The absence of a front license plate on an out of state vehicle can be considered to be a violation of law if the officer knows that the state of registration requires two plates. Without such knowledge there is no basis to conclude there had been a violation of the law of California.”

According to defendant, “The requirement that the officer knows that the state requires two plates is immaterial. It does not matter if the officer knew it was a violation

or not because a mistake of law cannot justify an arrest.” However, the instruction informs the jury that the officer must know the law of the state of registration in order to determine if California law had been violated. As the court explained, officers are supposed to know the law and an officer’s error of law “goes against him and not the person he stopped.”

Defendant contends Instruction No. 2 “also misstated the case law it was formulated on.” Instruction No. 2 states: “A refusal to ID oneself when requested by an officer is not a basis - by itself - to establish a violation of section 148 of the Penal Code.” The instruction does not misstate the law.

We find the court did not err in instructing the jury.

III

Sufficiency of the Evidence

Defendant challenges the sufficiency of the evidence, arguing “[i]t is no crime to nonviolently resist the unlawful action of police officers. In both cases [defendant] simply walked away.” In support defendant claims the “jury was not properly informed on the law” and the “jury instructions were contrary to law and the Constitution.”

In reviewing a defendant’s challenge to the sufficiency of the evidence, we review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence. Substantial evidence is evidence that is credible, reasonable, and of solid value such that a reasonable jury could find the defendant guilty beyond a reasonable doubt. (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.)

We do not reassess the credibility of witnesses, and we draw all inferences from the evidence that supports the jury’s verdict. (*People v. Olguin* (1994) 31 Cal.App.4th 1355, 1382.) Unless it is physically impossible or inherently improbable, the testimony of a single witness is sufficient to support a conviction. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) As to circumstantial evidence, even if we find the evidence

reasonably susceptible to a contrary finding, we reverse only if under no hypothesis whatsoever is there sufficient evidence to support the conviction. (*People v. Kraft* (2000) 23 Cal.4th 978, 1053-1054; *People v. Bolin* (1998) 18 Cal.4th 297, 331.)

To establish the crime of resisting an officer under section 148, subdivision (a), the prosecution must prove that “ ‘(1) the defendant willfully resisted, delayed, or obstructed a peace officer, (2) when the officer was engaged in the performance of his or her duties, and (3) the defendant knew or reasonably should have known the other person was a peace officer engaged in the performance of his or her duties.’ ” (*In re Muhammed C.* (2002) 95 Cal.App.4th 1325, 1329.)

In counts three and four, Officer Davis was on duty in his police vehicle wearing his standard uniform. While Davis and Officer Mantrell waited for backup, defendant got out of her car and began to walk away. Davis told her to stop and that she was detained. Davis detained defendant because he learned her Pennsylvania registration had expired. Defendant continued to walk towards the building. Davis tried to take defendant’s arm, but she pulled away. Defendant resisted the officers’ attempts to stop her and tried to kick Davis in the face. Davis did not know whether defendant was armed. He did a “hair pull takedown,” bringing defendant to the ground. As both officers struggled with defendant, she continued to kick and fight back until she was handcuffed. At trial, defendant testified she did not retain the piece of paper from the car that she stated was a temporary registration. The jury had before it substantial evidence that defendant resisted an officer on February 11, 2012.

However, defendant contends that “Upon sentencing, the trial court expressed that evidence of [defendant’s] temporary registration created reasonable doubt, and that he possibly should have allowed it to be submitted into evidence. The trial court also admitted that he should have dismissed count 1 and 2 earlier.”

The comments by the trial court defendant references took place during her sentencing hearing. The court granted defendant informal probation on the condition that she identify herself to officers when requested, regardless if she believed it was justified.

The prosecution requested a search condition. The court denied the request.

The court stated: “I happen to believe that the police department has been pushing the envelope, or certain officers have. She is stopped, contacted, repeatedly on very flimsy grounds.” The court found the arrest connected with counts one and two “was totally unlawful.” The court concluded: “So I’m not going to give a search and seizure order so the police now have a basis to search her on some of the flimsy grounds they have been using. So I’m not going to give her that. [¶] I am going to order that she is to identify herself when requested by a police officer, whether she believes it’s justified or not. This is for two years. She’ll be on two years of informal probation. She will identify herself.”

At a subsequent sentencing hearing, defendant rejected the probation condition. The prosecution requested defendant be sentenced to a year in jail. The court declined, stating: “I don’t consider her crime as magnitude [*sic*] of a year in jail. There is something about weighing seriousness in this world and you don’t get a year in county jail. This is a very iffy case, you know. She has some records that if she properly documented them, your case wouldn’t look too great, but she didn’t and the jurors rejected her explanation. As she has demonstrated, she does have some records that make this whole case not crystal clear. I’m willing to accept the fact that the jury found her guilty, and that -- but it’s very likely or there is a real possibility that the sticker on her window was a legitimate sticker.”

The court again discussed its unease with the facts surrounding counts one and two, including the jury instructions. On the requested year in jail, the court stated: “I think the evidence allows her conviction, but I’m not going to view this as public enemy number two in Sacramento county. And that’s why I think a shorter time in jail. This

woman has not [*sic*] a criminal history. She hasn't done sixty days in the county jail a number of times in the past or ever. I think making her spend time in jail, if that's how she chooses to go, makes a point and accomplishes as much as a year in jail. A year in jail for someone who's never been in jail is a hell of a penalty when all you've done is been unwilling to be fully cooperative with the police when you think you have a right to not cooperate and that's what she feels."

The court's comments were in response to discussions regarding conditions of defendant's probation and the length of her sentence. In passing, the court noted its concern with the evidence supporting counts one and two, which the jury failed to convict on. The court was not opining on the sufficiency of the evidence in support of counts three and four and these comments do not undermine our determination that sufficient evidence supports defendant's convictions on those counts.⁵

IV

Judicial Misconduct

Defendant, under the heading "Judicial Misconduct," argues the court erred by editing her opening statement. She also labels as misconduct several of the court's evidentiary rulings.

Judicial misconduct refers to a court's acts of impropriety showing favoritism or bias. (*People v. Abel* (2012) 53 Cal.4th 891, 913-922.) A trial court's exercise of its discretionary powers in determining what is to be presented to the jury does not constitute misconduct. (*People v. Avila* (2009) 46 Cal.4th 680, 715.) We find no misconduct.

⁵ Defendant also challenges the sufficiency of the evidence under the heading of prosecutorial misconduct.

V

Denial of Request for Experts

Defendant contends the trial court erred in denying her both expert witnesses and the opportunity to inform the jury on the law surrounding police encounters and procedures. These errors prevented defendant from establishing a pattern of police misconduct.

Background

Prior to trial, defendant filed a motion for funds to retain experts. The pro. per. coordinator had previously denied the request. Defendant requested the following experts: (1) a psychologist to evaluate her mental state at the time of the offense; (2) a psychologist with expertise in mental challenges to evaluate defendant's current and past intellectual functioning, and, if needed, a neurologist or neuropsychologist to perform testing; (3) a clinically experienced social worker to evaluate defendant's troubled background; (4) a civil rights expert to evaluate police procedures and civil rights violations; and (5) a private investigator to find and interview witnesses. Defendant requested the civil rights expert because she had "never been involved in any type of criminal activity; yet, she is incessantly harassed, assaulted, and falsely imprisoned by various police officers."

The trial court granted the first request, denied the second through fourth, and issued a limited grant of the fifth. During trial, defendant noted she had requested a civil rights expert, but the pro. per. coordinator and the trial court denied her request. The trial court responded that defendant should have renewed her request 10 days earlier during the pretrial discussions. The court noted it was "not going to stop this trial and run around and try to find somebody who is an authority and reopen" defendant's case. Defendant stated she understood.

Discussion

An indigent defendant is entitled to appointed counsel and the ancillary services reasonably necessary to ensure presentation of a defense. The right to ancillary services exists if the defendant has demonstrated the need for those services by reference to the general lines of inquiry the defendant wishes to pursue, being as specific as possible. We review the trial court's decision on providing such services for an abuse of discretion.

(*Corenevsky v. Superior Court* (1984) 36 Cal.3d 307, 319-321)

We have reviewed the sealed transcript of the August 7, 2012 hearing. We find no abuse of discretion in the trial court's ruling on the ancillary services.

Defendant, in a related claim, argues the trial court prevented her from explaining to the jury "how the law totally contradicts with the practices of Sacramento police officers and how she was behaving in total compliance with the law." Under Evidence Code section 720, subdivision (a), a person may testify as an expert if they have special knowledge, skill, experience, training, or education sufficient to qualify them as an expert on the subject to which the testimony relates. Evidence Code section 801, subdivision (a), permits the introduction by a qualified expert when the testimony may assist the trier of fact.

We give the court considerable latitude in determining the qualifications of an expert. We will not disturb the trial court's ruling unless we find the court abused its discretion. (*People v. Kelly* (1976) 17 Cal.3d 24, 39.) In denying defendant's request, the court stated: "You're not a recognized authority. You've never qualified as an expert on the subject. You've studied books by yourself largely in [a] law library, that doesn't make you an expert." The court did not abuse its discretion in denying defendant's request to testify regarding police procedures and civil rights.

Defendant also contends the trial court erred in limiting the evidence defendant could present on a pattern of police misconduct. The court determined it would not "open a wide door" for defendant to "end up litigating a dozen incidents." Instead the

court allowed some testimony: “Well, I would permit you to describe . . . that you’ve been detained many times, the duration of some of those detentions that are beyond the simplest situation of a few minutes or five minutes, and that . . . many times you were released in the field, other times you’re released out of the jail, and that only two of these incidents have the People brought these criminal charges, the ones that are before the jury. [¶] . . . I would permit you to say, in your view, there was no justification for these, but we are not going to go through each one and go through the nitty-gritty of each time, what happened, and why you think it was unnecessary or inappropriate because that means we are going to bring in a dozen officers and we are going to try a case that is going to take weeks. And . . . since most of these officers are not directly involved in these particular charges we’re hearing. If they were involved in an earlier incident, then it may have relevance as to that particular officer’s attitude towards you or towards police duty. But we’re not going to go through every officer who you’ve had unpleasant interaction with.” The court concluded: “I think they [the jury] need to be aware that you are frustrated because you have been detained repeatedly and you do not believe those were justified. But I’m going to tell the jurors we are not going to go into every detail of all those cases or we would all be here a long, long time. [¶] Basically, I’m allowing it to allow the jurors to understand your state of mind and the reason why you might seem to them to be unduly agitated.”

Under Evidence Code section 352, the court, in its discretion, may find proposed evidence inadmissible if it finds the risk of undue delay, prejudice, or confusion substantially outweighs its probative value. We review the trial court’s decision under the abuse of discretion standard. (*People v. Rodriguez* (1994) 8 Cal.4th 1060, 1124.) Here, the trial court carefully considered the evidence proposed by defendant and found the risk of undue delay and confusion outweighed its probative value. The court then

carefully limited the evidence permitted defendant, to allow her to present evidence pertinent to the charges against her. We find no abuse of discretion.⁶

VI

Section 148

Defendant contends section 148 “is unconstitutional as applied and should be void for vagueness since there is no clear definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.” However, the Supreme Court has found section 148 is not unconstitutionally vague. (*In re Bacon* (1966) 240 Cal.App.2d 34, 55-58.)

VII

Running License Plates

Defendant asserts that “running license plates should be an illegal search without reasonable suspicion of criminal activity.” Under defendant’s reasoning, the information attached to a license plate is private and the police should not be able to access it.

However, a police officer’s observation of things in plain sight made from a location where the officer has a right to be does not amount to an unconstitutional search. Nor does an officer’s observation of an item in plain view violate the defendant’s reasonable expectation of privacy. (*Horton v. California* (1990) 496 U.S. 128, 133 [110 S.Ct. 2301]; *Lorenzana v. Superior Court* (1973) 9 Cal.3d 626, 634.) We find no violation of defendant’s constitutional rights in the officer’s running of her license plate.

⁶ Defendant presents a similar challenge to the trial court’s exclusion of evidence she “is a victim of systematic abuses, bullying, harassment, and racial profiling by the police department,” which prevented her from presenting her theory of the case. Again, we find no abuse of discretion.

VIII

Burden of Proof

Defendant alleges the trial court told her “it was her duty to prove the case and not the prosecutor’s.” Our review of the record refutes her allegation.

Defendant cites several exchanges to support her claim. During the trial on counts three and four, defendant stated the prosecution had the burden of proof at trial. The court responded, “Well, the prosecution has the burden of proof but that does not mean you don’t get to be asked questions.” The court’s comment did not impose the burden of proof on defendant.

When discussing defendant’s motion for a new trial, the court informed defendant that the prosecution did not have to prove that her registration was not updated. The court explained that if the officer had a basis to believe the registration was not valid, the court would issue a citation requiring her to identify herself. Again, this did not shift the burden of proof to defendant.

The court, in instructing the jury, correctly stated that the prosecution bore the burden of proof. We find no due process violation.

IX

Racial Profiling

Defendant asserts she was the victim of racial profiling, having “been detained for flimsy reasons such as ‘look suspicious’, ‘curiosity’, and for identification purposes.”

Defendant did not raise the issue of racial profiling either before or during trial. Failure to raise the issue at trial precludes raising it on appeal for the first time. (*People v.*

Clayburg (2012) 211 Cal.App.4th 86, 93 (*Clayburg*).)

X

Miscellaneous Allegations

Defendant contends the police department refuses to investigate allegations of misconduct while criminal charges are pending and she is being discriminated against based on her out-of-state residency. She also claims that “being continually prosecuted without any court intervention caused discrimination against” her. In addition, she maintains she is the subject of harassment and is intentionally targeted by police in retaliation for her numerous complaints and the court violated her due process rights “in order to preserve the court’s resources.”

However, defendant provides no legal analysis and fails to cite any legal authority to support her allegations. It is defendant’s burden to affirmatively show the court erred. To demonstrate such error, defendant must provide meaningful legal analysis supported by citations to both the facts in the record and citations to authority to support her claims. Mere suggestions of error, without supporting argument or authority other than general abstract principles fail to present us grounds for review on appeal. (*Multani v. Witkin & Neal* (2013) 215 Cal.App.4th 1428, 1457 (*Multani*).)

The rules of appellate procedure apply to defendant even though she is representing herself on appeal. (*Leslie v. Board of Medical Quality Assurance* (1991) 234 Cal.App.3d 117, 121.) A party may choose to act as his or her own attorney. We treat such a party like any other party, and he or she “ ‘is entitled to the same, but no greater consideration than other litigants and attorneys. [Citation.]’ ” (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247.) Accordingly, given the absence of either citations to the record or legal authority to support defendant’s claims, the claim is forfeited.

XI

Prosecutorial Misconduct

Defendant asserts a variety of allegations under the rubric of prosecutorial misconduct.

Denial of Discovery

Background

Prior to trial, defendant filed a “Motion for Sanctions Due to Government’s refusal to produce Discovery.” Defendant claimed a CD provided by the prosecution did not work and that she had been denied a recording in which she allegedly made “a felony threat to a police officer” and stated the police had destroyed the recording. She sought dismissal of the case due to the government’s destruction and refusal to disclose discovery “per PC § 1054 et al.”

At the hearing on the motion, defendant requested sanctions because she had not received all the information she requested. The prosecutor responded defendant had everything the People had. The prosecutor stated that, pursuant to a court order, he had turned over (1) a February 2012 audio recording of Officer Deardorff at the jail, (2) a contact log which showed any contacts between defendant and police officers over the past year, (3) a CD from August 2011 which defendant had previously received but did not work, and (4) “a continuous communication log between officers for February 11, 2012, August 8, 2011, May 12, 2012, June 19, 2011.” The prosecution had requested the log in both audio and written form, but received only a written log. The prosecutor also stated all four of the items had been provided to defendant and been made available for pick up for a week.

Defendant stated the written log was an abridged version and requested an unabridged version. She also wanted an audio recording of Officer Deardorff, but received only a partial printout. The prosecutor offered to provide the missing pages.

The prosecutor stated defendant had been provided the contact log and every police report in which defendant was contacted. No audio existed of the texts. Defendant argued she wanted the “dispatch video” for June 19, 2011, August 8, 2011, February 11, 2012, and May 12, 2012, for the officers she listed. The prosecutor agreed to contact Internal Affairs to ascertain if any videos existed or if they had been destroyed. The court ordered the prosecution to provide defendant with the car camera video and continuous communication logs for May 12, 2012, and June 19, 2011.

In a subsequent hearing on the motion, the prosecutor provided further information about audio recordings requested by defendant. Incoming calls were provided to defendant on CD’s and the police department was making available tapes of radio traffic that day. The prosecution had provided defendant the car video for August 8, 2011, June 19, 2011, and February 11, 2012. There was no car video for May 12, 2012.

Discussion

The prosecution must disclose any material evidence exculpatory of the defendant. To establish a violation of this duty, the defendant must show the evidence was favorable to the defendant, the evidence was willfully or inadvertently suppressed, and prejudice ensued. (*In re Sassounian* (1995) 9 Cal.4th 535, 543; *People v. Salazar* (2005) 35 Cal.4th 1031, 1043.) The prosecution must disclose any exculpatory evidence and reports or statements of experts made in conjunction with the case to the defense. (§ 1054.1, subds. (e), (f).)

The trial court possesses broad discretion to fashion a remedy for a discovery violation to ensure defendant receives a fair trial. (*People v. Jenkins* (2000) 22 Cal.4th 900, 951 (*Jenkins*).) “Even where the prosecution acts willfully and in bad faith . . . ‘the extreme sanction of dismissal is rarely appropriate unless a defendant has established prejudice by the failure of the People to comply with the discovery order [citation] and the prejudice cannot be otherwise cured [citation]; lesser sanctions must be utilized by the

trial court, unless the effect of the prosecution's conduct is such that it deprives defendant of the right to a fair trial.' ” (*People v. Wimberly* (1992) 5 Cal.App.4th 773, 792-793.)

Defendant bears the burden of showing the prosecution's failure to comply with any discovery order is prejudicial. (*People v. Pinholster* (1992) 1 Cal.4th 865, 941.)

Defendant cannot meet that burden. Pursuant to the court's order, the prosecution requested both audio and written communication logs, but received only the written logs. The prosecutor stated all four of the matters ordered by the trial court had been provided to defendant. In addition, the prosecutor agreed to provide defendant with any missing pages and had already provided defendant with the contact log and every police report in which defendant was referenced. The prosecutor agreed to contact Internal Affairs again to see if the videos defendant requested existed and to provide car camera videos and continuous communication logs. During a subsequent hearing, the prosecutor agreed to obtain the computer-aided dispatch (CAD) logs for all incidents involving defendant. Given the record before us we cannot find the trial court abused its discretion.

Various Incidents of Misconduct

Defendant presents a barrage of complaints against the prosecution. According to defendant, the prosecution punished her for not talking to the police, used her height and previous athletic career against her, offered to dismiss the charges if she would go to Mental Health Court, told the jury she was in violation of Vehicle Code section 5202 even though she was not, continually referenced false laws and focused on irrelevant facts to impeach defendant, focused on its opinion of what defendant should have done, suggested all defendant had to do was give her identification, elicited prejudicial answers from witnesses, asked jurors to put themselves in the position of the 911 caller and asked what the jurors would want an officer to do if someone was banging on their door, and purposely misstated the law suggesting it was reasonable to violate someone's constitutional rights under the circumstances.

Defendant failed to object to any of these perceived errors in the trial court. Moreover, our review of the record reveals no misconduct on the part of the prosecution. “A prosecutor’s conduct violates the federal Constitution when it infects the trial with such unfairness as to make the resulting conviction a denial of due process. Conduct by a prosecutor that does not rise to this level nevertheless violates California law if it involves the use of deceptive or reprehensible methods to attempt to persuade either the court or the jury.” (*People v. Whalen* (2013) 56 Cal.4th 1, 52.) None of the conduct defendant complains of rises to this level and we find no error.

XII

Judicial Errors

Unconstitutional Conditions Doctrine

According to defendant, “When [defendant] notified the court that she had not received discovery, the court told [defendant] that if she wanted discovery she had to waive her right to a speedy trial.” This, defendant argues, violated the unconstitutional-conditions doctrine.

Again, defendant failed to object in the trial court and we will not consider the issue for the first time on appeal. (*Clayburg, supra*, 211 Cal.App.4th at p. 93.) Moreover, defendant provides no legal analysis or citations to authority to support her claim. (*Multani, supra*, 215 Cal.App.4th at p. 1457.)

Admission and Exclusion of Evidence

Defendant argues the court erred in allowing the prosecution to introduce defendant’s mug shot and refused to allow defendant “to enter any evidence of her temporary registration.” Again, we will not disturb the trial court’s determination under Evidence Code section 352 absent an abuse of discretion. (*People v. Lewis* (2001) 26 Cal.4th 334, 374.)

The court admitted defendant's mug shot because it showed her appearance on April 8, 2011, within hours of the incident and showed the condition of her face. We find no abuse of discretion.

As for defendant's evidence of temporary registration, defendant did not retain the temporary registration she claimed was attached to her back window. Instead, defendant sought to introduce a screen shot from a Pennsylvania website and emails from the Pennsylvania Department of Transportation.

The court stated: "I doubt any of these are going to qualify as exceptions to the hearsay rule. As [the prosecutor] pointed out, you can certainly testify that you did send in money to Pennsylvania on such and such a date and you never received -- maybe because you did not have a permanent address, but you never received anything from them. If that's what you believe and that's what your testimony would be, you can say that. [¶] But these documents aren't the kind of official documents that would be considered reliable and useful." Defendant's proffered evidence was hearsay (Evid. Code, § 1200). Nor did defendant show they were admissible business records (Evid. Code, § 1271) or public records within the exception (Evid. Code, § 1280). The court did not abuse its discretion in finding the evidence inadmissible.

Murgia Motion

Defendant claims the court improperly denied her *Murgia* motion. (*Murgia v. Municipal Court* (1975) 15 Cal.3d 286.)

Background

In June 2012 defendant filed a "Notice of Motion for Discovery (*Murgia* Motion) w/Points and Authorities." The motion requested the following documents: "1. All police initiated complaints filed within the last 10 years; [¶] 2. All dismissed police initiated complaints within the last 10 years; [¶] 3. All complaints filed within the last 10 years concerning drivers with out-of-state vehicle registration; [¶] 4. All complaints within the

last 10 years filed containing resisting arrest charge(s) such as PC § 148 and/or PC § 69; [¶] 5. All dismissed cases within the past 10 years; [¶] 6. The vetting process of the District Attorney's office for dismissing charges; [¶] 7. The procedure or guidelines the District Attorney uses to prosecute cases; [¶] 8. All complaints against individuals, who were charged with either PC § 148 or PC § 69, that occurred on separate incidents within the past 10 years; [¶] 9. All persons prosecuted under California Vehicle Code when they are in full compliance with the Vehicle Code in which their vehicle is registered; [¶] 10. All action taken by the District Attorney when discovery does not match the police report or the evidence supplied; [¶] 11. All cases filed within the past 10 years that were consolidated; and [¶] 12. All complaints filed concerning people who have previously filed a complaint against the police department.”

Defendant stated she had been singled out for prosecution because of her desire to exercise her constitutional rights, her complaints against the police department, and her “resilience and demand for justice.” The trial court denied the motion.

Discussion

A defendant's claim of discriminatory prosecution does not go to the nature of the charged offense, but to a defect of constitutional dimension in the initiation of the prosecution. The defect is the denial of equal protection to defendants singled out for a prosecution based on an unjustifiable standard such as race, religion, or any other arbitrary classification. When a defendant establishes the elements of discriminatory prosecution, the court must dismiss the action unless the People establish a compelling reason for selective enforcement. (*Baluyut v. Superior Court* (1996) 12 Cal.4th 826, 831-832.)

To succeed on a discriminatory prosecution discovery motion a defendant must produce some evidence that a prosecution policy had a discriminatory effect and was motivated by a discriminatory purpose. The defendant must make a credible showing of

different treatment of similarly situated persons. To make this showing a defendant may identify a similarly situated individual or use statistical evidence. We review a trial court's denial of the motion for an abuse of discretion. (*United States v. Armstrong* (1996) 517 U.S. 456, 465-470 [116 S.Ct. 1480]; *People v. Superior Court (Baez)* (2000) 79 Cal.App.4th 1177, 1185-1186.)

Here, defendant failed to produce evidence of a policy for prosecutions that had a discriminatory effect and was motivated by a discriminatory purpose. Defendant alleged "on information and belief [that] the District Attorney and the Police Department said they usually dismiss these types of cases." On appeal, defendant asserts only that she "has been detained and harassed enough to be a similarly situated person against herself." Defendant did not present evidence that the People failed to prosecute others who are similarly situated and the court did not abuse its discretion.

XIII

Sixth Amendment Violations

Speedy Trial

Defendant asserts the court denied her right to a speedy trial when "the original trial court for counts 1 and 2 waived time and took away . . . [her] right to represent herself . . . and . . . when the cases were consolidated and time was reset."

Background

On January 5, 2012, the case was assigned to a court department for trial on counts one and two. The acts underlying counts three and four had not yet been committed. Defendant appeared in pro. per., but an assistant public defender was reappointed as counsel of record. The public defender explained she was trying to obtain an evaluation under Evidence Code section 730. The court ordered a court appointed criminal adult expert to produce a mental health report on defendant. The court, finding good cause for a continuance, continued the matter until January 9, 2012. Defendant did not object. On

January 9, 2012, the court held a hearing at which defendant appeared and the court substituted retained counsel.

In May 2012 the prosecution filed a motion to consolidate the two cases. The court subsequently granted the motion and the retained counsel was relieved as defendant's attorney. The court vacated the previously assigned trial date and set a trial date in the consolidated case within 60 days. Defendant did not object.

Discussion

First, we note defendant failed to object either when the court continued the matter or when the court granted the prosecution's motion to consolidate. A defendant must object and file a timely motion to dismiss to preserve the issue on appeal. (*People v. Wilson* (1963) 60 Cal.2d 139, 146; *People v. Williams* (1999) 77 Cal.App.4th 436, 460.)

Regardless, we cannot find any violation of defendant's constitutional rights. The right to a speedy trial protects a defendant from facing an unduly lengthy period in which criminal charges are pending. In considering that right, courts consider the length of the delay, the reasons for the delay, the defendant's assertion of the right, and prejudice to the defendant. (*Barker v. Wingo* (1972) 407 U.S. 514, 530 [92 S.Ct. 2182]; *People v. Hajjai* (2010) 50 Cal.4th 1184, 1193.) In the absence of waiver or consent on the part of the defendant, section 1382 requires dismissal when a defendant is not brought to trial within the statutorily prescribed period after the filing of the information unless good cause is shown. (*Hajjai*, at p. 1194.) We review a court's determination of good cause under the abuse of discretion standard. (*Jenkins, supra*, 22 Cal.4th at p. 1037.)

Here, defendant's counsel requested an evaluation under Evidence Code section 730, which the court granted. Finding good cause for a continuance, the court continued the matter. We find no abuse of discretion.

Pro. Per. Coordinator

Defendant argues the pro. per. coordinator “was an unfair roadblock and an obstacle that hindered her process” and denied her effective assistance of counsel. According to defendant, she was denied a proper investigator: “She was told she had to write down all of the questions that she wanted to have asked and that she had to know the names of possible witnesses.” Again, defendant failed to raise this issue in the trial court and we will not consider it for the first time on appeal. (*Clayburg, supra*, 211 Cal.App.4th at p. 93.)

Right to be Informed

In addition, defendant asserts her “Sixth Amendment rights were further violated because she was never informed of the crime she was charged with.” According to defendant, she was “charged with violation [of] Pen. Code, sec. 148, yet, the entire case surrounded Vehicle Code Section 4000 and Vehicle Code 5202.” Defendant is confusing the Vehicle Code sections the officers were investigating with the Penal Code section she was ultimately charged with. We find no error.

XIV

Fifth Amendment Violation

Double Jeopardy

Defendant contends her right against double jeopardy was violated because she was found guilty of two counts of violating section 148 from “one act of walking away.”⁷ The double jeopardy bar under the Fifth Amendment protects a defendant from a second prosecution for the same offense following an acquittal or conviction, and protects

⁷ Defendant also again argues “she was told by the trial court that it was her job to prove the case and not the prosecutor’s job.” We discussed this allegation *ante* and found it without merit.

against multiple punishments for the same offense. (*People v. Anderson* (2009) 47 Cal.4th 92, 103-104.)

Section 148, subdivision (e), provides in part: “A person may be convicted of multiple violations of this section if more than one public officer, peace officer, or emergency technician are victims.” In *People v. Hairston* (2009) 174 Cal.App.4th 231 at page 238, we found: “If, in the course of resisting an officer, a defendant resists another officer, [defendant] is guilty of committing a second separate offense and may be convicted separately for that offense.”

Defendant committed two separate violations of section 148; she resisted both Officer Davis and Officer Mantrell. We find no double jeopardy violation.

Consolidation of Cases

Defendant hired counsel to represent her on counts one and two and represented herself on counts three and four. According to defendant, consolidating the two cases caused her retained counsel to withdraw since she was representing herself on counts three and four. This violated her right to due process and a fair trial.

Consolidation or joinder of charged offenses generally promotes efficiency and therefore is the preferred course of action. (*Alcala v. Superior Court* (2008) 43 Cal.4th 1205, 1220.) Section 954 provides that an “accusatory pleading may charge two or more different offenses connected together in their commission, or different statements of the same offense or two or more different offenses of the same class of crimes or offenses, under separate counts . . . provided, that the court in which a case is triable, in the interests of justice and for good cause shown, may in its discretion order that the different offenses or counts set forth in the accusatory pleading be tried separately.”

If the statutory requirements under section 954 for joinder of charged offenses are met, a defendant challenging the trial court’s joinder has the burden to clearly establish that joinder poses a substantial danger of prejudice. (*People v. Soper* (2009) 45 Cal.4th

759, 773.) Defendant fails to meet this burden. Defendant's retained counsel declined to continue his representation because the case was beyond the scope of his agreement with defendant. Defendant had the option of requesting replacement counsel. We cannot find the trial court violated defendant's due process rights in joining the cases.

DISPOSITION

The judgment is affirmed.

RAYE, P. J.

We concur:

ROBIE, J.

DUARTE, J.